Remark

The Applicant respectfully requests reconsideration of this application as amended. In this amendment, Applicant has amended claims 1, 20, and 24. No claims have been cancelled. Claims 2 – 19, 21 – 23, and 25 – 40 remain unchanged by this amendment. New claims 41 – 43 have been added. Hence, claims 1 – 43 are pending in this application after the filing of this amendment. Applicants submit that no new subject matter has been added by these amendments.

General Discussion

Prior to discussing each rejection in detail, each of the cited references and the Application are discussed generally. The Office based one or more rejections on U.S. Pat. No. 6,628,617 issued to Karol et al (hereafter Karol), U.S. Patent Publication 2003/0118006 by Yang (hereafter Yang), and U.S. Patent Publication 2002/0101860 issued to Thornton et al. (hereafter Thornton).

With regard to Karol, Karol discusses a network layer system for routing datagrams or packets between a source endpoint and a destination endpoint. Between the endpoints, if a connection-oriented (CO) path is established, a gateway directs each packet either over a connectionless (CL) network or a connection-oriented (CO) network based on the traffic situation or user-specified service requirements. Thus, within a given communication between the source and destination, the route for each packet is determined individually.

Referring to Yang, Yang discusses a network manager that evaluates, at the network layer, a plurality of communication paths between edge switches. The network manager receives requests for resources and allocates resources between the switches based on traffic load. Yang's resources are either circuit-switch resources or packet-switch resources. Based on demand, each of the network switches can each be dynamically allocated and reallocated as either a circuit-switch or packet-switch.

Turning to Thornton, a gateway is described that routes phone calls between two organization locations over a private data network, rather than the PSTN, if

the QOS on the private data network is sufficient. The gateway can thereby take advantage of excess bandwidth on a LAN and the private data network. The phone call is routed either entirely over the private data network or entirely over the PSTN at any given time. The gateway accepts PSTN numbers and determines whether to use the private data network or the PSTN.

In contrast to Yang, Karol, and Thornton, the present Application is directed toward a system that can initiate a telephony call at the application layer by using a circuit-switched network and/or a packet-switched network. When a call is initiated from an origination endpoint in a packet-switched network to a destination endpoint, selection criteria is used to determine whether to route the call to the destination endpoint using a circuit-switched network (e.g., PSTN). If the call is to be routed over the circuit-switched network, a destination endpoint identification number (e.g., a DID number) is translated, within the packet-switched network, into a format that can be used on the circuit-switched network (e.g., E.164). As a result, a call enters the packet-switched network and from the packet-switched network, it can be initiated through the circuit-switched network.

Claim Rejections – 35 U.S.C. § 102

The Office rejected claims 1-7, 20-29, and 40 under 35 U.S.C. 102(e) for allegedly being anticipated by U.S. Pat. No. 6,628,617 issued to Karol et al (hereafter Karol). The Applicant respectfully disagrees with the Office's characterization of Karol and points out several distinctions between the claimed subject matter and the teachings of Karol.

Claim 1, as amended, is reproduced here:

> 1. A computerized method for performing alternate routing of communications in a network, the method comprising:
> initiating a communication from an origination endpoint in a packet-switched network to a destination endpoint; and
> determining, according to selection criteria, whether to route the communication to the destination endpoint using at least a second circuit-switched network; and
> within the packet-switched network, translating a destination

endpoint identification number from a format associated with the packet-switched network into a format associated with the circuit-switched network.

Claim 1 recites, in part, within the packet-switched network, translating a destination endpoint identification number from a format associated with the packet-switched network into a format associated with the circuit-switched network. Applicant has reviewed Karol, and has found no teaching of at least the element of translating, within the packet-switched network, a destination endpoint identification number from a format associated with the packet-switched network into a format associated with the circuit-switched network. Furthermore, because Karol is directed at solving different problems than those of the current Application, the cited references do not suggest the computerized method of claim 1.

With regard to Karol, the Karol system is concerned with routing individual packets of a communication. See Karol, col. 5, ll. 8 – 38; Fig. 5. The packets are routed over a CL network, and can be routed over a CO network, if a connection has been established over the CO network. Id. at col. 5, ll. 51 – 54. Because Karol is concerned with routing individual packets of a communication, Karol does not disclose or suggest translating a destination endpoint identification number from a format associated with the packet-switched into a format associated with the circuit-switched network.

Claims 2 – 19 each depend from claim 1 in some form. As such, each of claims 2 – 19 inherit all the limitations of claim 1. Therefore, Karol fails to teach all of the elements of any of claims 2 – 19 for at least the reasons given above with respect to claim 1. In addition, claims 2 – 19 each contain there own additional elements that further distinguish them from the art of record.

Turning to independent claim 20, claim 20, as amended, is reproduced here:

20. A system for alternate routing of communications in a network, the

system comprising:
an origination endpoint in a packet-switched network;
a destination endpoint;
a gatekeeper programmed to determine, according to selection criteria, whether to route a communication from the origination endpoint to the destination endpoint using at least a second circuit-switched network; and
a translation gateway translating a destination endpoint identifier from a format associated with the packet-switched network into a format associated with the circuit-switched network.

Claim 20 recites, in part, a translation gateway translating a destination endpoint identifier from a format associated with the packet-switched network into a format associated with the circuit-switched network. Applicant has reviewed Karol and can find no teaching of at least a translation gateway translating a destination endpoint identifier from a format associated with the packet-switched network into a format associated with the circuit-switched network. Furthermore, because Karol is directed at solving different problems than those of the present Application, none of the references suggest all of the elements recited in claim 20.

For at least the same reasons as discussed above with regard to claim 1, Karol does not teach claim 20's translation gateway translating a destination endpoint identifier from a format associated with the packet-switched network into a format associated with the circuit-switched network.

Claims 21 – 40 each depend from claim 20 in some form. As such, each of claims 21 – 40 inherit all the limitations of claim 20. Therefore, Karol fails to teach all of the elements of any of claims 21 – 40 for at least the reasons given above with respect to claim 20. In addition, claims 21 – 40 each contain there own additional elements that further distinguish them from the art of record.

Claim Rejections – 35 U.S.C. § 103

The Office rejected claims 8 and 30 under 35 U.S.C. 103(a) as being allegedly unpantentable over Karol in view of U.S. Pat. Pub. 2003/0118006 of Yang (hereafter "Yang"). The Office rejected claims 9 – 18 and 31 – 39 under 35 U.S.C.

103(a) as being allegedly unpantentable over Karol in view of U.S. Pat. Pub. 2002/0101860 of Thornton (hereafter "Thornton").

Turning to claims 8 and 30, each of these claims are directed toward determining bandwidth based on a number of call counts processed by an enterprise gatekeeper. Applicant acknowledges Office's assertion that Karol does not specify that determining bandwidth criteria comprises whether a number of call counts processed by the CL-CO gateway is above a specified threshold.

Karol is discussed above and clearly does not anticipate the method recited in claim 1 for at least the reasons stated above. Claim 8 depends from claim 1, and therefore inherits all the limitations of claim 1. For this reason alone, claim 8 is distinguishable over Karol and Yang, either individually or in combination.

Regarding claim 30, claim 30 depends from claim 20. Karol clearly neither teaches nor suggests claim 20 for at least the reasons given above. Claim 30 inherits all the limitations of claim 20 and for this reason alone, claim 30 is clearly distinguishable over Karol and Yang, either individually or in combination.

With particular regard to Yang, the system of Yang is concerned with routing of individual packets of a communication by allocating switches as either packet switches or network switches. See Yang, para. [0005], [0025]. Yang's system therefore focuses on routing individual data packets via the switches. Id. at para. [0017]. Yang is concerned with determining switches to use at the network layer, and therefore does not teach or suggest translating a destination endpoint identification number from a format associated with the packet-switched network into a format associated with the circuit-switched network. For at least this additional reason, Yang does not teach or suggest all of the elements of claims 8 and 30.

Turning to claims 9 and 31, these claims are directed at determining whether to route the communication to the destination endpoint using

at least a circuit-switched network according to network resource availability criteria. Applicant acknowledges that Karol does not specify that the traffic situation comprises network resources availability (as in claims 9 and 31) and that the resource availability comprises the availability of a network component (as in claims 10 and 32), and that the network component is a network endpoint (as in claims 11 and 33).

Claim 9 depends from claim 1, and therefore inherits all the limitations of claim 1. As such, claim 9 is clearly distinguishable over Karol and Thornton, for at least the reasons given above with respect to claim 1.

Referring more specifically to Thornton, the Thornton system includes a gateway that receives calls intended for the PSTN, and can direct them either over the PSTN, or over a private data network, if excess bandwidth is available on the private data network. See Thornton, paras. [0072] – [0074]. The entire call is carried either over the PSTN or over the private data network. Id. paras. [0074] – [0075]. Therefore, there is no translating, within a packet-switched network, a destination endpoint identification number from a format associated with the packet-switched network into a format associated with the circuit-switched network. For at least this additional reason, claims 9 and 31 are neither taught nor suggested by Karol or Thornton, either separately or in combination.

Claim Rejections – 35 U.S.C. § 112

The Office rejected claim 24 under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Claim 24 has been amended to more clearly claim subject matter of the invention and overcome this rejection. Claim 24 is reproduced below:

> 24. The system of claim 20, wherein the destination endpoint comprises a PSTN endpoint.

The Office rejected claims 20 – 40 under 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. The Office states that, in claim 20, the claimed "gatekeeper programmed to determine, according to selection criteria, whether to route a communication from the origination endpoint to the destination endpoint using at least a second circuit-switched network" (hereafter "the gatekeeper element") is not in conformance with the supposedly corresponding claim 1 and the specification.

Applicant traverses this rejection. As to the Office's assertion that the gatekeeper element of claim 20 is not in conformance with the specification, the Applicant respectfully disagrees. One, but not the only, example of a description in the specification of a gatekeeper performing such determining is reproduced below:

> "The enterprise gatekeeper determines, according to selection criteria, whether there are sufficient resources to route the call, step 211." See Application, p. 15, first full paragraph.

The foregoing passage is merely one of multiple passages in the specification that describe a gatekeeper in conformance with the gatekeeper recited in claim 20.

With regard to the Office's assertion that claim 20 is not in conformance with the supposedly corresponding claim 1, the Applicant asserts that claim 1 recites a computerized method that may be carried out by any number of computerized devices or systems and is not limited to a gatekeeper. Applicant further is unaware of any rule that would require claims 1 and 20 to be "in conformance" with each other. The claims vary both in scope and in type, as is allowed, and even encouraged by PTO guidelines. See, e.g., MPEP 608.01(i) – 608.01(o).

At least for the foregoing reasons, claim 20 is in conformance with the specification and properly particularly points out the subject mater which the Applicant regards as the invention. As such, Applicant respectfully requests that the rejections of claims 20 – 40 under 35 U.S.C. 112 be withdrawn.

Claim Amendments

Applicant has amended some of the claims to more clearly claim subject matter of the invention. Applicant submits that these amendments are for clarification purposes only, and do not limit or narrow the claims in any way. Indeed, in some instances, the amendments broaden the claims. In any event, Applicant submits that the claims still are allowable over the cited art, and thus Applicant respectfully requests the Office to promptly issue a Notice of Allowance.

New Claims

New claims 41 – 43 have been added. Applicant asserts that no new subject matter is added by these new claims. Support for these claims can be found generally throughout the specification, and specifically at pages 17 – 18, and Fig. 2 with its corresponding description. Claims 41 – 42 are distinguishable over the cited art for at least the reason that the cited art neither teaches nor suggests translating an E.164 direct inward dial (DID) number into a PSTN-routable number. Claim 43 is distinguishable over the cited art for at least the reason that the cited art neither teaches nor suggests one or more of receiving a destination telephone number at a gatekeeper in a packet-switched network, the destination telephone number being in a format suitable for routing the telephonic call over the packet-switched network; determining whether to route the telephonic call using the packet-switched network or a circuit-switched network based on network selection criteria; translating, within the packet-switched network, the destination telephone number into a format suitable for routing the telephonic call over the circuit-switched network; and establishing a connection over the circuit-switched network using the destination telephone number in the format suitable for routing the telephonic call over the circuit-switched network.

Conclusion

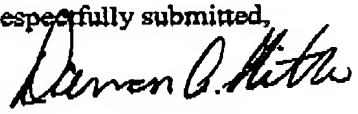
Applicant respectfully submits that the amendment and remark have overcome the rejections, and that the pending claims are in condition for allowance.

Accordingly, Applicant requests that the rejections be withdrawn and that a Notice of Allowance be issued forthwith.

Request for a Telephone Interview

If the Office believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-607-3500.

Respectfully submitted,



Damon A. Rieth, Esq.
Reg. No. 52,167

FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
Tel: 303-607-3500
Fax: 303-607-3600
DNVR1:60295450.01